

37-05  
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Washington  
Department of  
FISH and  
WILDLIFE

# HYDRAULIC PROJECT APPROVAL

RCW 77.55.100 - Appeal pursuant to Chapter 34.05 RCW

North Puget Sound  
16018 Mill Creek Boulevard  
Mill Creek, WA 98012-1296  
(425) 775-1311

Issue Date: March 01, 2005  
Expiration Date: December 31, 2005

Control Number: 100680-1  
FPA/Public Notice #:

PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
Ash Grove Cement Company ATTENTION: Craig Puljan 3801 E Marginal Way South Seattle WA, 98134-1147 206-623-5596( ) Fax: 206-623-5355	Anchor Environmental, L.L.C. ATTENTION: Sasha Visconty 1423 Third Ave., Suite 300 Seattle WA, 98101 206-287-9130 Fax: 206-287-9131

Project Name: Fender Replacement  
Project Description: Replace rubber tire fender system with high-density polyethylene panels.  
Fenders will be attached to new steel pipe struts.

## PROVISIONS

1. Work shall be accomplished per plans and specifications approved by the Washington Department of Fish and Wildlife entitled Proposed Fender Replacement and dated December 2004, except as modified by this Hydraulic Project Approval. A copy of these plans shall be available on site during construction.
2. All manmade debris on the beach shall be removed and disposed of upland such that it does not enter waters of the state.
3. The existing tire fender system shall not be re-located within waters of the state without written authorization from WDFW. They shall be removed and disposed of upland such that they do not re-enter such waters.
4. This approval is for repair/replacement of the existing structure only and shall not result in expansion of the structure.
5. As specified in the application, the new fender system shall be durable high-density polyethylene, extending from an elevation of +16 MLLW down to -1 MLLW.
6. All materials treated with preservatives shall be sufficiently cured to minimize leaching into the water or bed.
7. Project activities shall not occur when the project area, including the work corridor (excluding the area occupied by a grounded barge), is inundated by tidal waters.
8. As specified in your application, installation shall be done from a barge or the dock and no bottom sediments shall be disturbed.
9. Project activities shall be conducted to minimize siltation of the beach area and bed.
10. An emergency spill containment kit must be located on site along with a pollution prevention plan detailing planned fueling, materials storage, and equipment storage. Waste storage areas





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must be prepared to address prevention and cleanup of accidental spills.

11. If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), immediate notification shall be made to the Washington Department of Ecology at 1-800-258-5990, and to the Area Habitat Biologist listed below.

12. All debris or deleterious material resulting from construction shall be removed from the beach area and bed and prevented from entering waters of the state.

13. No petroleum products or other deleterious materials shall enter surface waters.

14. Wood treated with preservatives, trash, waste, or other deleterious materials shall not be burned below the ordinary high water line. Limited burning of untreated wood or similar material may be allowed at or above the mean higher high water line.

15. Project activities shall not degrade water quality to the detriment of fish life.

### PROJECT LOCATIONS

Location #1 3801 E. Marginal

Work Start:03-01-2005 Work End:12-31-2005

WRIA	WATERBODY		TRIBUTARY TO		COUNTY
08.9100	Wria 08 Marine		Puget Sound		King
1/4 SEC.	Section	Township:	Range:	Latitude:	Longitude
All	18	24 N	04 E	N 47.583	W 122.346
DRIVING DIRECTIONS: Duwamish Waterway					

### NOTES

#### APPLY TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval pertains only to the provisions of the Washington State Fisheries and Wildlife Code, specifically RCW 77.55 (formerly RCW 75.20). Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the



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work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued pursuant to RCW 77.55.100 or 77.55.200 are subject to additional restrictions, conditions or revocation if the Department of Fish and Wildlife determines that new biological or physical information indicates the need for such action. The person(s) to whom this Hydraulic Project Approval is issued has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All Hydraulic Project Approvals issued pursuant to RCW 77.55.110 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the person(s) to whom this Hydraulic Project Approval is issued: PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 77.55.170.

### APPEALS INFORMATION

IF YOU WISH TO APPEAL THE ISSUANCE OR DENIAL OF, OR CONDITIONS PROVIDED IN A HYDRAULIC PROJECT APPROVAL, THERE ARE INFORMAL AND FORMAL APPEAL PROCESSES AVAILABLE.

A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100, 77.55.110, 77.55.140, 77.55.190, 77.55.200, and 77.55.290: A person who is aggrieved or adversely affected by the following Department actions may request an informal review of:

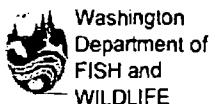
(A) The denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval; or

(B) An order imposing civil penalties. A request for an INFORMAL REVIEW shall be in WRITING to the Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091 and shall be RECEIVED by the Department within 30-days of the denial or issuance of a Hydraulic Project Approval or receipt of an order imposing civil penalties. If agreed to by the aggrieved party, and the aggrieved party is the Hydraulic Project Approval applicant, resolution of the concerns will be facilitated through discussions with the Area Habitat Biologist and his/her supervisor. If resolution is not reached, or the aggrieved party is not the Hydraulic Project Approval applicant, the Habitat Environmental Services Division Manager or his/her designee shall conduct a review and recommend a decision to the Director or his/her designee. If you are not satisfied with the results of this informal appeal, a formal appeal may be filed.

B. FORMAL APPEALS (WAC 220-110-350) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100 OR 77.55.140: A person who is aggrieved or adversely affected by the following Department actions may request a formal review of:

(A) The denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval;

(B) An order imposing civil penalties; or



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(C) Any other 'agency action' for which an adjudicative proceeding is required under the Administrative Procedure Act, Chapter 34.05 RCW.

A request for a FORMAL APPEAL shall be in WRITING to the Department of Fish and Wildlife HPA Appeals Coordinator, shall be plainly labeled as 'REQUEST FOR FORMAL APPEAL' and shall be RECEIVED DURING OFFICE HOURS by the Department at 600 Capitol Way North, Olympia, Washington 98501-1091, within 30-days of the Department action that is being challenged. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within 30-days of the date of the Department's written decision in response to the informal appeal.

C. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.110, 77.55.200, 77.55.230, or 77.55.290: A person who is aggrieved or adversely affected by the denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval may request a formal appeal. The request for FORMAL APPEAL shall be in WRITING to the Hydraulic Appeals Board per WAC 259-04 at Environmental Hearings Office, 4224 Sixth Avenue SE, Building Two - Rowe Six, Lacey, Washington 98504; telephone 360/459-6327.

D. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO CHAPTER 43.21L RCW: A person who is aggrieved or adversely affected by the denial or issuance of a Hydraulic Project Approval, or the conditions or provisions made part of a Hydraulic Project Approval may request a formal appeal. The FORMAL APPEAL shall be in accordance with the provisions of Chapter 43.21L RCW and Chapter 199-08 WAC. The request for FORMAL APPEAL shall be in WRITING to the Environmental and Land Use Hearings Board at Environmental Hearings Office, Environmental and Land Use Hearings Board, 4224 Sixth Avenue SE, Building Two - Rowe Six, P.O. Box 40903, Lacey, Washington 98504; telephone 360/459-6327.

E. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS RESULTS IN FORFEITURE OF ALL APPEAL RIGHTS. IF THERE IS NO TIMELY REQUEST FOR AN APPEAL, THE DEPARTMENT ACTION SHALL BE FINAL AND UNAPPEALABLE.

ENFORCEMENT OFFICER: Sergeant Chandler (34) P3

Laura Praye Habitat Biologist	425-379-2306		for Director WDFW
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CC: Margaret Glowacki, City of Seattle, DPD